

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

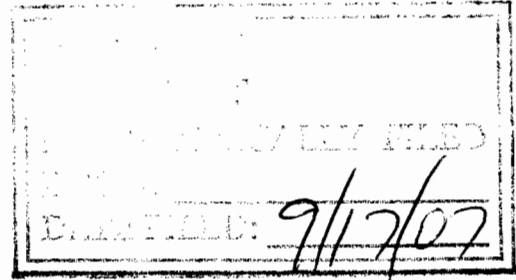
-----X  
RAIMUNDO NASCIMENTO,

Plaintiff,

-v.-

ESSEX INSURANCE CO., US UNDERWRITERS :  
INSURANCE CO., THE BURLINGTON :  
INSURANCE CO., :

Defendants.  
-----X



07 Civ. 5468 (GEL)

ORDER


GERARD E. LYNCH, District Judge:

On July 20, 2007, defendant Essex Insurance Co. filed a motion to dismiss the complaint for failure to state a claim under N.Y. Ins. L. § 3420(a)(2), because plaintiff had not obtained a judgment against its insured. On September 14, 2007, at a conference before the Court, defendant Burlington Insurance Co. joined Essex's motion. As to both Essex and Burlington, that motion is hereby granted on consent.

At the September 14, 2007, conference, plaintiff moved to dismiss its complaint without prejudice against the remaining defendant, US Underwriters Insurance Co. US Underwriters is hereby directed to notify the Court by September 21, 2007, whether it will in fact oppose plaintiff's motion. If US Underwriters does choose to oppose plaintiff's motion, the parties are hereby directed to submit a briefing schedule for that motion to the Court on or before September 24, 2007.

SO ORDERED.

Dated: New York, New York  
September 14, 2007

  
GERARD E. LYNCH  
United States District Judge